

**Chesapeake Bay Local Assistance Board
Northern Area Review Committee
Tuesday, August 15, 2006
Richmond, Virginia**

Northern Area Review Committee Members Present

Donald W. Davis
Walter J. Sheffield

William E. Duncanson

Gregory C. Evans, by phone

DCR Staff Present

Russell W. Baxter, Deputy Director
Joan Salvati, Division Director, Chesapeake Bay Local Assistance
Shawn W. Smith, Principal Environmental Planner
Heather C.A. Mackey, Principal Environmental Planner
Nancy L. Miller, Senior Environmental Planner
V'lent Lassiter, Senior Environmental Planner
Michael R. Fletcher, Director of Development

Local Government Officials Present

Fairfax County

John Friedman

King William County

Steve Lucchesi
Charles Lefon

Prince William County

Wade Hugh

Spotsylvania County

Richard Street
Melvin Bennett
Troy Tignor

Call to Order and Opening Remarks

Mr. Davis called the meeting to order and declared a quorum present.

Ms. Salvati reminded members of the LID Conference scheduled for September 12 at the Lewis Ginter Botanical Gardens in Richmond. The third conference in the series will be on Riparian Buffers on September 19, also at Lewis Ginter.

Mr. Baxter gave an update about Secretary Bryant's workgroup meeting on HB1150. On July 24, the Secretary hosted a meeting to receive public input on the development of the plan called for under the legislation. This will be a strategic plan for cleaning up Virginia's waterways, not only in the Chesapeake Bay Watershed but also the impaired waters list out side the Bay area. Mr. Davis attended the meeting on behalf of the Board. Other DCR Board chairs, members of the State Water Control Board and interested citizens also participated.

Local Program Review – Local Ordinances – Phase I

Prince William County

Ms. Mackey gave the report for Prince William County. She noted that Wade Hugh from the County was in attendance.

On April 3, 2006 the Board found Prince William's ordinances inconsistent with the Act and Regulations because several outstanding conditions had not been addressed. In fact, revisions to both the zoning ordinance and the Design and Construction Standards Manual had been drafted and reviewed by Department staff, but had not yet been adopted by the County Board of Supervisors. The Board set a deadline for ordinance adoption of June 30, 2006, and on June 6, 2006 the County Board of Supervisors adopted amendments to the DCSM. A zoning ordinance amendment, which will address a condition concerning utility exemptions, has been approved by the Planning Commission and is scheduled to go before the Board of Supervisors on September 19, 2006. Department staff is of the opinion that the conditions have been fully met, contingent upon the County Board of Supervisors action on September 19, 2006. Staff recommends that the Board find the County's Phase I ordinance amendments consistent with the Act and Regulations.

Mr. Hugh thanked Ms. Salvati and Ms. Mackey for working with the County through the process. He said that the County is very close to completing the requirements and that he would report progress in September.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find Prince William County's Chesapeake Bay Preservation Area

Overlay District Ordinance (Overlay District Ordinance) and the Design Construction Standards Manual (DCSM) consistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations contingent upon the adoption by the County Board of Supervisors of the required Overlay District Ordinance language on September 19, 2006.

SECOND: Mr. Sheffield

DISCUSSION: None

VOTE: Motion carried unanimously

Local Program Reviews – Comprehensive Plans – Phase II

Town of Bowling Green

Ms. Smith presented the report for the Town of Bowling Green. She noted that no one was present from the Town.

The Town's comprehensive plan was reviewed by the Board on December 13, 1999. At this meeting, the Board found the plan to be consistent with 5 conditions and a compliance deadline of June 1, 2003. During the intervening years, a number of staff members informed the Town of the deadline, most recently beginning in August 2005, but the Town has yet to adopt a revised plan. Both the Town and the Department have had a number of staff changes in the past few years, but on February 27, 2006, the Town did notify the Department that a revised plan would be adopted by June or July of this year. The Town is working on a revised comprehensive plan, and has provided information on the latest draft for review. However, staff is recommending that the Town's Phase II program be found inconsistent due the fact that it is currently 3 years overdue in meeting the 2003 deadline despite being provided a number of notices of the deadline. Staff is recommending a final deadline of December 31, 2006 for the Town to adopt a revised plan that addresses the 5 conditions in the 1999 review. Staff intends to continue to offer assistance to the town to meet this deadline and to address the consistency recommendations.

MOTION: Ms. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find the Town of Bowling Green's Phase II program inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations and that the Town be given a final deadline of October 30, 2006 for the Town to address the five outstanding consistency recommendations from the December 13, 1999 review.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Local Program Reviews – Compliance Evaluation

Town of Colonial Beach

Ms. Lassiter gave the report for the Town of Colonial Beach. There was no one present from the Town.

Colonial Beach's initial compliance evaluation was conducted in late 2004 to early 2005. During the course of the evaluation, staff identified several aspects where implementation of the Town's Bay Act program did not appear to fully comply with the Act and Regulations. On March 21, 2005, the Board adopted a resolution that required the Town to undertake and complete four recommendations by March 31, 2006.

During the last week of April and early weeks of May, staff received numerous complaints about RPA violations occurring at Monroe Point, a 50-acre PUD currently under development in the Town. As a result, staff delayed final review of the Town's compliance evaluation conditions in order to fully evaluate these complaints. The Town has been responsive in attempting to resolve the violation, and consequently staff is proceeding with the final review.

The first condition involved the submission and documentation of WQIAs for any proposed land disturbance, development or redevelopment within RPAs, and for development in RMAs when required by the Zoning Administrator. The Town now requires that a WQIA prepared by an engineer be submitted for all land disturbances in the RPA.

The second condition required that the Town develop a BMP database and a standard BMP maintenance agreement that specifies inspection and maintenance procedures. The Town has developed a BMP maintenance agreement and was provided a BMP tracking database by Department staff. The Town anticipates notifying owners of BMPs annually and requesting that they submit a statement that the BMP has been inspected and working properly.

The third condition required that all sites qualifying as redevelopment reduce stormwater runoff pollutant loads by 10% and submit stormwater quality management plans for review. Due to limited Town resources, Department staff currently assists the Town in

reviewing all redevelopment projects. The Town does not anticipate many redevelopment projects in the near future and will continue to work towards retaining adequate staff.

The fourth condition required that the Town review shoreline erosion projects and require a WQIA for such projects when they are proposed to extend into the RPA. All shoreline erosion control projects are now required to submit a WQIA, and a land-disturbing permit is required for any project that proposes to disturb more than 2,500 square feet of land in the RPA.

Since Colonial Beach has addressed all four conditions, it is staff's opinion that the Town's implementation of its Bay Act program fully complies with the Act and Regulations.

Ms. Salvati noted that Monroe Point was a controversial issue. The Town has committed that there will be no building permits issued until the RPA is successfully restored or a bond adequate to cover the cost of restoration is obtained.

Mr. Sheffield said that the bond should have corporate surety and should be held for two years. He noted that often landscaping will survive a year, but that plants often fail in the second year.

Ms. Salvati agreed and noted that landscape architects recommend greater than a year.

Mr. Duncanson asked if the Town was working with Westmoreland County.

Ms. Lassiter said that to her knowledge, they were not.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that Colonial Beach has addressed the four recommendations from the March 21, 2005 compliance evaluation and that Colonial Beach's implementation of its Phase I program be found compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, but that a two-year surety bond be incorporated into the development and restoration plan for Monroe Point.

SECOND: Mr. Sheffield

DISCUSSION: Mr. Baxter asked if there had not been a complaint if the Town would have been in a position to identify the situation.

Ms. Salvati said that the Town had first identified this as a minor problem. She noted that was why the compliance evaluation was deferred.

VOTE: Motion carried unanimously

King William County

Ms. Miller gave the Compliance Evaluation Condition Review interim update for King William County. She recognized Scott Lucchesi and Charles Lefon with the County. She noted that Lee Yolton, Community Development Director, had resigned.

On April 3, 2006 the Board found the County's Phase I program not fully compliant with the Act and the Regulations and outlined three recommendations to be addressed by June 30, 2006 and one recommendation to be addressed by September 30, 2006. The County provided the Department with materials and a report on June 30, 2006 documenting its progress in addressing the three recommendations, which require implementation of a BMP tracking and maintenance program, and procurement and review of WQIAs and mitigation plans. The Department has confirmed that the County is recording BMP maintenance agreements, maintaining BMP information to monitor and inspect BMPs, and has changed its application procedures and policies to ensure submission and review of WQIAs and mitigation plans.

The remaining recommendation requires implementation of a 5-year septic system pump-out notification/enforcement program by September 30, 2006, and a staff report regarding the status of all four recommendations will be prepared for the next Board meeting after the September deadline.

Mr. Lefon noted that the County Administrator had hoped to attend the meeting but had a conflict. He said the County has been working with Ms. Miller. He noted that the County has a very small staff.

Mr. Lefon said that the County tries not to allow any disturbance in the RPA.

No action was needed on King William County.

Prince William County – Review of previous condition.

Ms. Mackey gave the report for Prince William County. She again recognized Mr. Hugh.

On September 20, 2005 the Board conducted a compliance evaluation of Prince William County and found that the County's program was not fully compliant with 9 recommendations. The County was given a deadline of December 31, 2005. The County

provided information regarding their progress toward compliance, however Department staff found that only 3 of the recommendations had been adequately addressed.

On April 3, 2006 the Board found the County's program to be inconsistent and gave the County a deadline of June 30, 2006 for the remaining 6 conditions. In response to the conditions, required ordinance changes were adopted by the County Board of Supervisors on June 6, 2006, a letter was sent out to septic system owners notifying them of the pump out requirement, and a letter to industry was distributed concerning utility exemptions conditions. The original recommendation concerning the utility exemptions conditions required changes to the Prince William County Sanitary Authority utility standards manual. Department staff will follow up within one year of Board action to confirm that either the manual revisions have been made, or the County is continuing to implement the policy as stated in the letter to industry.

Staff finds that these changes and additions to County review policies and procedures have adequately addressed the outstanding conditions; however, in recent weeks several issues have come to our attention that involve not ordinance requirements but implementation policy and practices on the part of County staff. Department and County staffs met last week to discuss these issues and together we developed an action plan that involves training of the County Wetlands Board and staff, and a review of recent WQIAs for adequate mitigation recommendations.

At this time, staff recommends that the Northern Area Review Committee defer review of the compliance evaluation conditions by the full Board until next quarter, to give staff time to fully investigate and resolve these questions.

Ms. Mackey said the staff suggestion was to bring this back to the NARC in October and to the full Board in December. The County Wetlands Board meets in mid-September. DCBLA staff will provide a training module and will schedule a visit to look at recent WQIAs to make sure they are properly done.

Mr. Hugh said the County was in agreement with that timeline. He noted that two members on the Wetlands Board were also members of the Chesapeake Bay Preservation Area Review Board.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board defer action on review of the previous conditions of the compliance evaluation of Prince William County's implementation of its Phase I program until the October NARC and December CBLAB meetings.

SECOND: Mr. Evans

DISCUSSION: Staff noted that the item would be noted on the September agenda as extended until December.

VOTE: Motion carried unanimously

Town of Occoquan – Review of Previous Conditions

Ms. Mackey presented the report for the Town of Occoquan. There was no representative from the Town in attendance.

On March 21, 2005 the Board found that the Town of Occoquan's program did not fully comply with the Act and Regulations, with 8 recommendations to be completed by March 31, 2006. The recommendations related to CBPA mapping, WQIA requirements, plan of development files and forms, stormwater management requirements, BMP maintenance and tracking, and RPA exceptions and waivers.

In response to these conditions, the Town has worked with a team of consultants to produce documents and databases necessary to be in compliance with the Regulations. A Chesapeake Bay Preservation Overlay District Compliance Resource Book has been developed which contains a corrected CBPA map; a flow chart outlining the plans review process and the forms and checklists necessary to determine compliance; an RPA exceptions database, encroachment application form, review checklists and WQIA forms to be used in evaluating requests; and a BMP maintenance agreement, forms and checklists, and tracking database.

There was one ordinance change that was recommended which will be reviewed by the Town Council on September 12, 2006. The ordinance change will codify the use of the 16% impervious cover default in stormwater calculations.

Staff finds that with these changes and additions to review processes and procedures, the Town adequately addresses the conditions. Staff recommends that the Board find the Town of Occoquan's implementation of its Phase I program be found consistent with the Act and regulations.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the Town of Occoquan has addressed the eight conditions from the March 21, 2005 compliance evaluation and that the Town of Occoquan's implementation of its Phase I program be found compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Duncanson

REVISED: 9/20/2006 11:02:10 AM

DISCUSSION: None

VOTE: Motion carried unanimously

Fairfax County – Initial Compliance Evaluation

Ms. Mackey gave the report for Fairfax County. She recognized John Friedman with the County.

The Department initiated the compliance evaluation in February 2005, proceeding with site plan review and field investigation visits in June and July 2005. Several conversations have been held between County and Department staff in the interim to negotiate several of the recommendations.

In general, staff found Fairfax County's program to be extremely comprehensive, with checks and balances found throughout numerous County codes and ordinances. Several changes to the Public Facilities Manual were recently adopted at the Department's request concerning the declassification of streams from perennial to intermittent. Negotiation between County and Department staff over this issue was the primary delay in bringing the compliance evaluation to the Board.

The only area in which the Department was able to find the County at all deficient in its program implementation is the WQIA submission and review process, and even this recommendation is a matter of consistency and documentation. Department staff found that there is just so much development going on, and so many County staff people are involved, that WQIA requirements are insufficiently documented and inconsistently applied for smaller projects. In addition, Recommendations 1, 2, 4, and 5 are all ordinance changes necessary to tighten up the language, rather than to address deficiencies in the County's program implementation. Staff felt they were necessary, however, for consistency with the Regulations.

County staff was very helpful during the compliance evaluation process. Department staff will work closely with County staff to address the recommendations within the established time frame. Staff recommends the Board find certain aspects of Fairfax County's program not fully compliant with the Act and Regulations and that the County complete the 5 recommendations in the staff report no later than December 31, 2007.

Mr. Friedman said the County is committed to addressing the five recommendations in a timely manner.

Mr. Sheffield asked why the deadline was set for 13 months.

Mr. Friedman said that not all of the recommendations would take the full 13 months. However he noted that the County had recently amended a portion of the Chesapeake Bay ordinance. He also noted that the schedule for the Board of Supervisors is full through March with other items.

Mr. Sheffield asked if the County could provide an interim report in February.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of Fairfax County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and that further Fairfax County be directed to undertake and complete the five (5) recommendations contained in the staff report prior to the August 2007 meeting of the NARC.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Spotsylvania County – Initial Compliance Evaluation

Ms. Smith gave the report for Spotsylvania County. She recognized Richard Street, Melvin Bennett and Troy Tignor from the County.

The compliance evaluation for the County was started in late spring of 2005, with several meetings to complete the checklist, review site plans and perform field visits taking place in the summer of 2005. The delay in bringing the review to the Board is related to staff departures at the Department. However, the delay was beneficial in that the County was able to address some of the previous compliance recommendations, so the result is that there are fewer recommendations than the initial report. The County has been very cooperative throughout the process, and has taken some positive steps to improve its Bay Act program, based on the initial staff report. For instance, the County now has one staff person in its Codes Compliance Department that is focused solely on RPA issues and the County also began to require a WQIA for all proposed encroachments into the RPA.

Based on the review during 2005 and re-review in 2006, staff has 4 recommendations for compliance. The first relates to the septic pump-out requirement, and the need for the County to develop a program to either notify septic tank properties of the need to either have the system pump-out every 5 years, have it inspected or have it pumped and install the plastic filter. The other three recommendations relate to stormwater requirements and BMP maintenance. One requires the County to amend its BMP design standards and

pollutant removal efficiencies to conform with those outlined in the Virginia Stormwater Management Handbook; another requires the County to amend a section of its stormwater ordinance to include all conditions that are to be reviewed when County staff considers requests for an administrative waiver to the stormwater requirements. The final recommendation requires the County to implement a program to ensure that maintenance of water quality BMPs is occurring. Regarding this last recommendation, the County recently initiated a BMP maintenance program to be implemented by the County's Code Compliance staff, but since this program is very recent, additional information on this program will be needed to satisfy this recommendation.

Spotsylvania County is an extremely fast-growing county with a great deal of development pressure. Despite this pressure, County staff are working to implement their Bay Act program consistent with their local ordinance and the Regulations. Staff recommends that certain aspects of the implementation of the County's Phase I program do not fully comply with the Act and Regulations, and that the Board establish September 30, 2007 as the deadline for the county. As previously suggested by the Board, staff will provide an update on the progress by the County in addressing these four recommendations at the May NARC and June CBLAB meetings.

Mr. Tignor said that, on behalf of the County Administrator Randy Wheeler, Spotsylvania is committed to meeting these goals. He thanked Ms. Smith for the assistance provided. He that the County has made progress towards the four issues.

Mr. Tignor said getting the records from the Health Department in an orderly form is difficult because of the age and filing system of the records.

Mr. Sheffield asked if the County could get the drainfield ready in 13 months.

Mr. Tignor said that the work may start on a district basis.

Ms. Smith said that the staff recommendation was not that the pumpout work be completed but that a program was set up and undertaken.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of Spotsylvania County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and further that Spotsylvania County be directed to undertake and complete recommendations 2, 3, and 4 as contained in the staff report no later than March 31, 2007 and recommendation 1 no later than September 30, 2007.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Mathews County – Initial Compliance Evaluation

Ms. Miller gave the report for Mathews County. She noted that no one was present from the County, and that Steve Whiteway, the County Administrator had advised that the County is currently short-staffed.

Beginning in July 2005, the Department conducted a compliance evaluation of Mathews County's implementation of its Phase I program. The review was suspended for several months while the County adopted revisions to its CBPA Overlay District and met a December 31, 2005 deadline for two Phase I conditions. While the evaluation revealed that the County is striving to implement an effective local Bay Act program, there are five recommendations that must be addressed for full compliance. They require that the County must: document that all Bay Act Plan of Development requirements are met; implement a septic system pump-out notification and enforcement program; track and periodically inspect BMPs; secure WQIAs as required; and, enforce RPA buffer modification limitations.

Staff recommends that the Board find that certain aspects of the County's implementation of its Phase I program do not fully comply and further that Mathews County undertake and complete the five recommendations in the staff report no later than September 30, 2007.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of Mathews County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and further that the County be directed to undertake and complete the 5 recommendations contained in the staff report no later than September 30, 2007.

SECOND: Mr. Sheffield.

DISCUSSION: None

VOTE: Motion carried unanimously

Other Business

Mr. Davis asked for an update on the City of Hampton.

Ms. Salvati said that staff had not received any feedback. She noted the City agreed with the concept that they can tear down and rebuild in older areas where they have IDAs consistent with their current regulations. The City is to submit a written response in time for the September Board meeting.

Ms. Salvati said that for the Board to take further action, the appeal must be withdrawn.

Mr. Davis noted that the SARC meeting was cancelled due to the lack of a quorum. He said he would like to address that issue at the Board meeting and possibly through the Bylaws.

The next meeting of the Policy Committee will be Thursday, September 7 at 9:00 a.m. in the DCBLA Conference Room.

Public Comment

There was no further public comment.

Adjourn

There being no further business, the meeting was adjourned.

Respectfully submitted,

Donald W. Davis
Chair

Joseph H. Maroon
Director